

HOUSE BILL 419

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2001 Regular Session
(1r0073)

ENROLLED BILL

-- Environmental Matters/Economic and Environmental Affairs --

Introduced by **Chairman, Environmental Matters Committee (Departmental - Health and Mental Hygiene)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Milk and Milk Products - Regulation**

3 FOR the purpose of requiring a person to obtain a certain permit before the person
4 may transport a milk product; redesignating a milk hauler as a bulk milk
5 hauler/sampler; exempting certain persons from the permitting process;
6 ~~increasing certain fees~~; establishing certain fees; altering the process for
7 appealing a final decision of the Secretary of Health and Mental Hygiene; and
8 generally relating to the regulation and permitting process for milk and milk
9 products.

10 BY repealing and reenacting, with amendments,
11 Article - Health - General
12 Section 21-401, 21-410, 21-411, 21-412, 21-413, 21-416, and 21-419
13 Annotated Code of Maryland
14 (2000 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Health - General**

4 21-401.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) "Bobtailer" means a person who operates or controls a Grade A milk route
7 and distributes Grade A pasteurized milk products that the person buys from a Grade
8 A distributor or a milk processor.

9 (C) "BULK MILK HAULER/SAMPLER" MEANS ANY PERSON WHO COLLECTS
10 OFFICIAL SAMPLES AND TRANSPORTS RAW MILK FROM A FARM OR RAW MILK
11 PRODUCTS OR BOTH TO OR FROM A MILK PLANT, RECEIVING STATION, OR TRANSFER
12 STATION AND WHO POSSESSES A PERMIT FROM ANY STATE TO SAMPLE THE MILK OR
13 RAW MILK PRODUCTS.

14 [(c)] (D) "Certified industry dairy farm inspector" means an individual who is
15 certified by the Secretary under § 21-414 of this subtitle.

16 [(d)] (E) "Dairy farm" means a place where at least 1 cow or goat is kept, and
17 from which the milk is sold or offered for sale.

18 [(e)] (F) "Departmental inspection area" means the area in which the
19 Department routinely makes inspections under this subtitle.

20 [(f)] (G) "Grade A distribution station" means any place or vehicle where, for
21 redistribution and sale, Grade A pasteurized milk products routinely are received,
22 stored, or transferred.

23 [(g)] (H) "Grade A distributor" means a person who sells a Grade A
24 pasteurized milk product.

25 [(h)] (I) "Grade A Pasteurized Milk Ordinance" means the recommended
26 Grade "A" Pasteurized Milk Ordinance published by the federal government.

27 [(i)] (J) (1) "Milk" means the milk of a cow or goat.

28 (2) "Grade A milk" means the milk of a cow or goat produced, processed,
29 pasteurized, bottled, packaged, or prepared in accordance with the Grade A
30 Pasteurized Milk Ordinance.

31 (3) "Manufactured milk" means the milk of a cow or goat which is not
32 Grade A milk and which is produced, processed, pasteurized, bottled, packaged, or
33 prepared in accordance with "Milk for Manufacturing Purposes and Its Production
34 and Processing: Recommended Requirements".

35 [(j)] (K) "Milk fat" means the natural fat of milk.

1 [(j-1)] (L) "Milk for Manufacturing Purposes and Its Production and
2 Processing: Recommended Requirements" means the Milk for Manufacturing
3 Purposes and Its Production and Processing: Recommended Requirements published
4 by the U.S. Department of Agriculture.

5 [(k)] "Milk hauler" means an individual who is in charge of a milk tank truck
6 while it is receiving, transporting, or delivering milk.]

7 [(l)] (M) (1) "Milk plant" means any place where, for distribution, milk
8 products are:

9 (i) Processed;

10 (ii) Pasteurized;

11 (iii) Bottled or packaged; or

12 (iv) Prepared.

13 (2) "Milk plant" does not include a place where milk products are sold at
14 retail only.

15 [(m)] (N) "Milk processor" means a person who owns, operates, or controls a
16 milk plant.

17 [(n)] (O) "Milk producer" means a person who operates a dairy farm.

18 [(o)] (P) (1) "Grade A milk product" means:

19 (i) Grade A milk;

20 (ii) Grade A cream; or

21 (iii) Any other Grade A milk product that the Secretary designates.

22 (2) "Manufactured grade milk product" means:

23 (i) Manufactured grade milk;

24 (ii) Manufactured grade cream; or

25 (iii) Any other manufactured grade milk product that the Secretary
26 designates.

27 [(p)] (Q) "Milk tank truck" means a truck and its equipment that are used to
28 transport milk products.

29 (R) "MILK TRANSPORTATION COMPANY" MEANS A PERSON RESPONSIBLE FOR
30 A MILK TANK TRUCK.

31 [(q)] (S) "Misbranded milk product" means a milk product:

1 (1) That is in a container that bears or is accompanied by any false or
2 misleading written, printed, or graphic material; or

3 (2) That is not labeled in accordance with this subtitle.

4 [(r)] (T) (1) "Pasteurized" means having undergone the process of uniformly
5 heating each particle of milk product, holding it in the heated state, and cooling it, in
6 approved and properly operated equipment and under the conditions of temperature
7 and time that the Secretary by rule or regulation establishes, to make the milk
8 product safe and free of pathogens.

9 (2) "Pasteurized" includes having undergone any other process that:

10 (i) Is recognized by the appropriate federal authority to be equally
11 as effective as the process described in paragraph (1) of this subsection in making
12 milk products safe and free of pathogens; and

13 (ii) Is approved by the Secretary.

14 [(s)] (U) "Permit" means a permit issued by the Secretary under this subtitle
15 that authorizes the holder of the permit to do any act that is within the scope of the
16 permit.

17 [(t)] (V) "Raw milk" means unpasteurized milk.

18 [(u)] (W) "Receiving station" means any place where, for delivery to a milk
19 plant, raw milk is collected, cooled, and stored.

20 [(v)] (X) "Transfer station" means a place where milk is transferred directly
21 from a milk tank truck to another milk tank truck for delivery to a milk plant.

22 21-410.

23 (a) Except as otherwise provided in this section, a person shall obtain a permit
24 with a Grade A or a manufactured grade classification from the Secretary before that
25 person may:

26 (1) Bring, send, or receive a milk product into this State for sale;

27 (2) Offer a milk product for sale;

28 (3) Give a milk product away; [or]

29 (4) Store a milk product; OR

30 (5) TRANSPORT A MILK PRODUCT.

31 (b) A permit is required to:

32 (1) Be a bobtailer;

- 1 (2) BE A BULK MILK HAULER/SAMPLER;
- 2 [(2)] (3) Be a certified industry dairy farm inspector;
- 3 [(3)] (4) Be a milk processor;
- 4 [(4)] (5) Be a milk producer;
- 5 [(5) Be a milk hauler;]
- 6 (6) Operate a distribution station;
- 7 (7) OPERATE A MILK TRANSPORTATION COMPANY;
- 8 [(7)] (8) Operate a receiving station; or
- 9 [(8)] (9) Operate a transfer station.
- 10 (c) A permit is not required for:
- 11 (1) A milk producer who is outside the departmental inspection area if
- 12 the raw milk from that milk producer is processed by a milk processor who holds a
- 13 permit issued under this subtitle;
- 14 (2) A [milk hauler] BULK MILK HAULER/SAMPLER who receives raw
- 15 milk from outside the departmental inspection area;
- 16 (3) A grocery store, restaurant, soda fountain, or similar establishment
- 17 where milk products are served or sold at retail if:
- 18 (i) The establishment complies with all applicable provisions of
- 19 this subtitle and all applicable rules or regulations adopted under this subtitle; and
- 20 (ii) The milk product is received from a permit holder; or
- 21 (4) A [milk hauler] BULK MILK HAULER/SAMPLER who is transporting a
- 22 sealed tanker and not producers' samples.
- 23 (d) The Secretary shall designate all permits with one of the following
- 24 classifications, as required by rules and regulations:
- 25 (1) Grade A milk; or
- 26 (2) Manufactured milk.
- 27 21-411.
- 28 (a) To qualify for a permit, a person shall comply with the requirements of this
- 29 subtitle and the rules and regulations adopted under this subtitle.

1 (b) In addition to the requirements of subsection (a) of this section, to qualify
 2 for a certified industry dairy farm inspector permit or a [milk hauler] BULK MILK
 3 HAULER/SAMPLER permit, Grade A classification, the applicant shall meet the
 4 requirements of the Grade A Pasteurized Milk Ordinance.

5 (c) In addition to the requirements of subsection (a) of this section, to qualify
 6 for a certified industry dairy farm inspector permit or a [milk hauler] BULK MILK
 7 HAULER/SAMPLER permit, manufactured milk classification, the applicant shall meet
 8 the requirements of Milk for Manufacturing Purposes and Its Production and
 9 Processing: Recommended Requirements.

10 21-412.

11 (a) An applicant for a permit shall:

12 (1) Submit an application to the Secretary on the form that the Secretary
 13 provides; and

14 (2) Pay to the Secretary the annual fee specified in this section.

15 (b) The Secretary shall charge the following fees for permits:

- 16 (1) Bobtailer permit \$50.
- 17 (2) BULK MILK HAULER/SAMPLER PERMIT \$50.
- 18 [(2)] (3) Certified industry dairy farm inspector permit { \$10 } \$20.
- 19 [(3)] (4) Distribution station permit { \$25 } \$50.
- 20 [(4)] (5) Milk processor permit { \$100 } ~~\$200~~.
- 21 [(5)] (6) Milk producer permit No fee.
- 22 [(6)] (7) [Milk hauler permit] MILK TRANSPORTATION COMPANY
 23 PERMIT. ~~{ \$5 } \$50, PLUS \$20 FOR EACH MILK TANK TRUCK \$25, PLUS \$10 \$5 FOR EACH~~
 24 MILK TANK TRUCK.
- 25 [(7)] (8) Receiving station permit { \$25 } \$50.
- 26 [(8)] (9) Transfer station permit { \$25 } \$50.

27 21-413.

28 (a) If the property of the applicant is in the departmental inspection area,
 29 before issuing a permit, the Secretary shall inspect the property, buildings, and
 30 equipment of an applicant for:

- 31 (1) A bobtailer permit;
- 32 (2) A distribution station permit;

- 1 (3) A milk processor permit;
- 2 (4) A milk producer permit;
- 3 (5) A MILK TRANSPORTATION COMPANY PERMIT;
- 4 [(5)] (6) A receiving station permit; or
- 5 [(6)] (7) A transfer station permit.

6 (b) Each inspection under this section shall be to determine whether the
7 property, buildings, equipment, and their operation conform to the rules and
8 regulations adopted under this subtitle.

9 (c) To ensure continued conformity to the rules and regulations adopted under
10 this subtitle, the Secretary from time to time shall reinspect the property, buildings,
11 and equipment of each permit holder for whom an initial inspection is required under
12 this section.

13 21-416.

14 (a) While it is effective, a bobtailer permit authorizes the holder, on a Grade A
15 milk route that the holder operates or controls, to distribute Grade A pasteurized milk
16 products that the holder purchased from a Grade A distributor or a Grade A milk
17 processor.

18 (b) While it is effective, a certified industry dairy farm inspector permit
19 authorizes the holder to inspect dairy farms in accordance with this subtitle.

20 (c) While it is effective, a distribution station permit authorizes the holder, for
21 redistribution and sale, whether from a fixed location or from a vehicle:

- 22 (1) To receive Grade A pasteurized milk products;
- 23 (2) To store Grade A pasteurized milk products; and
- 24 (3) To transfer Grade A pasteurized milk products for redistribution and
25 sale.

26 (d) While it is effective, a milk processor permit authorizes the holder:

- 27 (1) To collect raw milk;
- 28 (2) To handle raw milk;
- 29 (3) To process raw milk;
- 30 (4) To pasteurize raw milk;
- 31 (5) To store pasteurized milk;

- 1 (6) To bottle or package pasteurized milk;
- 2 (7) To prepare pasteurized milk for distribution; and
- 3 (8) To distribute pasteurized milk.
- 4 (e) While it is effective, a milk producer permit authorizes the holder:
- 5 (1) To operate a dairy farm; and
- 6 (2) To sell raw milk from the dairy farm to:
- 7 (i) A receiving station;
- 8 (ii) A transfer station; or
- 9 (iii) A milk plant.
- 10 (f) While it is effective, a [milk hauler] BULK MILK HAULER/SAMPLER permit
11 authorizes the holder, while operating a milk tank truck:
- 12 (1) To receive raw milk products from a milk producer, milk plant,
13 receiving station, or transfer station;
- 14 (2) To transport raw milk products that have been received from a milk
15 producer, milk plant, receiving station, or transfer station; and
- 16 (3) To deliver raw milk products that have been received from a milk
17 producer, milk plant, receiving station, or transfer station.
- 18 (g) While it is effective, a receiving station permit authorizes the holder:
- 19 (1) To collect raw milk;
- 20 (2) To cool raw milk;
- 21 (3) To process raw milk;
- 22 (4) To store raw milk; and
- 23 (5) To prepare raw milk for delivery to a milk plant.
- 24 (h) While it is effective, a transfer station permit authorizes the holder to
25 operate a place where raw milk is transferred between milk tank trucks for eventual
26 delivery to a milk plant.
- 27 (i) A permittee authorized to perform a function under this subtitle shall only
28 exercise that authority as to the classification for which it is designated, except that:

1 (1) Unless otherwise specified in this subtitle, a milk producer permittee
2 with a Grade A classification authorized to perform a function under this subtitle may
3 exercise that authority for manufactured milk; and

4 (2) A milk processor, receiving station, or transfer station with a
5 manufactured milk classification may exercise that authority using Grade A raw
6 milk.

7 (J) WHILE IT IS EFFECTIVE, A MILK TRANSPORTATION COMPANY PERMIT
8 AUTHORIZES THE HOLDER TO OPERATE ONE OR MORE MILK TANK TRUCKS.

9 21-419.

10 (a) Except as otherwise provided in this subtitle and in the Administrative
11 Procedure Act, before the Secretary denies an application for a permit or takes any
12 action under § 21-418 of this subtitle, the Secretary shall give the person against
13 whom the action is contemplated an opportunity for a hearing before the Secretary.

14 (b) Except as otherwise provided in this section, the Secretary shall give notice
15 and hold the hearing in accordance with the Administrative Procedure Act.

16 (c) (1) Within 48 hours after the person receives notice of the Secretary's
17 action, a person whose permit has been suspended or who has received a notice that
18 the Secretary intends to suspend the permit may request a hearing.

19 (2) Within 72 hours after receiving the request for a hearing, the
20 Secretary shall hold the hearing.

21 (d) If after due notice the person for whom the hearing is held fails or refuses
22 to appear, nevertheless the Secretary may hear and determine the matter.

23 (e) A person aggrieved by a final decision of the Secretary in a contested case,
24 as defined by the Administrative Procedure Act, may [take an appeal] NOT APPEAL
25 TO THE BOARD OF REVIEW BUT MAY TAKE A DIRECT JUDICIAL APPEAL.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect July 1, 2001.

